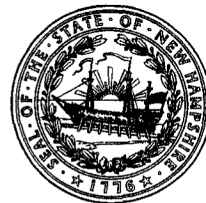




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

May 31, 2005

Brenda Lapico
PO Box 367
Twin Mountain, NH 03595-0367

Re: Docket No. AF 04-072 Motion to Accept Settlement Agreement

Dear Ms. Lapico:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on May 31, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Sclafani,
Legal Assistant

cc: Anthony P. Giunta, PG., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Thomas Beaulieu, DES WMD
Tammy Calligandes, DES WMD

Brenda Lapico
P.O. Box 367
Twin Mountain, NH 03595-0367

**ADMINISTRATIVE FINE
No. AF 04-072**

Re: Hanks General Store, Profile Road
Carroll, NH – UST ID # 0-112319

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division (“the Division”) and Brenda Lapico, parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services (“DES”), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Brenda Lapico is the registered owner of two underground storage tank (“UST”) systems at Hank’s General Store facility (“the Facility”), further identified as UST #0-112319, located on real property at Profile Road, Carroll, NH (“the Property”).
3. On September 9, 2004 the Division issued Notice of Proposed Administrative Fine No. AF 04-072 (“the Notice”) to Brenda Lapico, seeking fines totaling \$3,000 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. Specifically, the Notice cited Brenda Lapico for violating Env-Wm 1401.11(a) by failing to maintain accurate stock inventory records for both USTs in accordance with RSA 146-C:5 and Env-Wm 1401.11. Pursuant to Env-C 607.50(a) the Division sought a fine of \$1,000.
5. The Notice further cited Brenda Lapico for violating Env-Wm 1401.33 for failing to install corrosion protection for the flex connector piping for both USTs. Pursuant to Env-C 607.03 (f) the Division sought a fine of \$2,000.
6. In order to settle this matter, the Division and Brenda Lapico have agreed to the terms of this Settlement Agreement (“Agreement”), as set forth herein.
7. Of the proposed fine in the amount of \$3,000, 20% or \$600 shall be suspended due to the fact that the facility does not have a record of past violations. An additional 20% or \$600 shall be suspended due to Brenda Lapico’s cooperation in returning the facility to a compliance status. An additional 20% or \$600 shall be suspended due to the Facility’s small business status.

8. The suspended portion of the proposed fine, in the amount of \$1,800, is contingent on Brenda Lapico maintaining the subject facility in compliance with New Hampshire Administrative Rules Env-Wm 1401 for a period of two years from the date of the execution of this document. If Brenda Lapico fails to maintain compliance during the two-year period, the suspended portion of the proposed fine in the amount of \$1,800 shall become due and payable immediately. If Brenda Lapico maintains compliance for the prescribed two-year period, the suspended portion of the fines shall be waived.

9. Brenda Lapico agrees to pay the remaining \$1,200 upon execution of this Agreement by Brenda Lapico.

10. Payment under Paragraph # 9 and any payment that becomes due pursuant to Paragraph # 8 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

11. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

12. By executing this Agreement, Brenda Lapico waives her right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

13. The effective date of this Agreement will be the date on which it is signed by Brenda Lapico, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

14. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,

May 24 2005
Date

COPY
Brenda Lapico
Brenda Lapico, Owner

DES Waste management Division

5/26/05
Date

COPY
Anthony P. Giunta
Anthony P. Giunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 31ST day of MAY, 2005.

COPY
Michael J. Molin
Michael J. Molin, Commissioner
Department of Environmental Services